

REMARKS

I. Introduction

The Office Action mailed October 15, 2008, has been carefully considered. The present Amendment is intended to be a complete response thereto and to place the case in condition for allowance.

II. Status of the Claims

Claims 1-11 and 13-27 are pending. Claim 12 has been cancelled. Claims 15-20 have been withdrawn. Claims 21-27 have been added. Supports for new claims 21-25 are found, *inter alia*, in original claims 2, 5, 7-10, and 14, respectively. Claims 1-11 and 13-14 have been amended. Support for the amendment to claim 1 is found, *inter alia*, in original claims 11 (particles size between 0.5 microns and 1500 microns), 12 (active constituent), and 13 (meting point between 15°C and 75°C), and the specification on page 15, lines 15-18 (active constituent eliminated from the surface). Claims 2-11 and 13-14 have been amended to remove multiple dependencies and to be in accordance with U.S. practice.

III. Summary of the Office Action

In the office action, the Examiner objects to

- 1) the specification because the abstract “does not commence of a separate sheet in accordance with 37 CFR 1.52(b)(4);”
- 2) claims 4-14 “as being in improper form because a multiple dependent claim should refer to other claims in the alternative and/or cannot depend from any other multiple claim(s);” and

- 3) claim 3 “as being of improper dependent form for failing to further limit the subject matter of the previous claim.”

The Examiner also rejects

- 1) claim 2 under 35 U.S.C. § 112, second paragraph, as being indefinite for having “a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation.”
- 2) claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Blichare et al. (U.S. Patent No. 4,132,753);
- 3) claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Lantz et al. (U.S. Patent No. 3,146,167); and
- 4) claims 1-3 under 35 U.S.C. § 103(a) as being obvious over Blichare et al. in view of Lantz et al.

IV. Argument

Applicant respectfully traverses the objections and rejections as follows:

A. The abstract is proper

The Examiner objects to the abstract because it “does not commence on a separate sheet.”

Applicant files herewith a substitute abstract on a separate sheet. Accordingly, Applicants respectfully request withdrawal of the rejection.

B. The claims are proper

The Examiner objects to claims 4-14 “as being in improper because a multiple dependent claim should refer to other claims in the alternative and/or cannot depend from any other multiple claim(s).” The claims have been amended to remove multiple dependencies. Therefore, they are now in proper form.

The Examiner objects to claim 3 “as being of improper dependent form for failing to further limit the subject matter of the previous claim.” The Examiner asserts the “‘spherical form’ to be an inherent property of a particle or ‘droplet.’” Applicants respectfully disagree with this assertion. The term “particle” or “droplet” implies no shape to the object. The terms are used to describe small pieces of material, regardless of shape. Thus, these terms include spherical shapes, among other shapes. Claim 3, by reciting that “the lipidic particles are in a spherical form,” actually narrows claim 1 by specifying spherical particles instead of particles of other shapes. Therefore, because claim 3 is narrower in scope than claim 1, Applicants respectfully request withdrawal the rejection.

C. The claims are not indefinite

The Examiner alleges that claim 2 is indefinite because the claim recites a broad range of “up to 45°C” that is followed by a narrower range of “preferably up to 37.5°C.” Applicants have deleted the narrower range. The claim now contain only the range of “up to 45°C.” Therefore, Applicants respectfully request withdrawal of the rejection.

D. The claims are not anticipated

The Examiner alleges that claim 1-3 are anticipated by Blichare et al. or Lantz et al. Applicants respectfully submit that the rejection is moot because the claims now include at least all the limitations of original claim 12 which is not included in the rejection.

E. The claims are not obvious

The Examiner alleges that claims 1-3 are obvious over Blichare et al. in view of Lantz et al. Applicants respectfully submit that the rejection is moot because the claims now include at least all the limitations of original claim 12 which is not included in the rejection.

V. Conclusion

Applicants have responded to the Office Action mailed October 15, 2008. All pending claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (127137.0101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, Applicants hereby petition under 37 C.F.R. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

Respectfully submitted,

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